IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tax Case (Appeal) No.537 of 2009

Commissioner of Income Tax,
Chennai. ... Appellant

-vs-

M/s Dadha Pharma Pvt. Ltd.,
168, Llyods Road,
Chennai-600 014.
PAN AAACD1265F. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Chennai "A" Bench, dated 03.12.2008 in I.T.A.No.31/Mds/2008, for the assessment year 2000-01.

For Appellant : Mr.T.R.Senthil Kumar,
Senior Standing Counsel

For Respondent : Mr.G.Baskar

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JUDGMENT

(Judgement of the Court was delivered by T.S.Sivagnanam, J.)

This appeal, by the appellant/Revenue, is directed against the order of the Income Tax Appellate Tribunal Chennai "A" Bench, dated 03.12.2008 in I.T.A.No.31/Mds/2008, for the assessment year 2000-01.

*2.*Heard Mr.T.R.Senthil Kumar, learned Senior Standing Counsel for the Revenue and Mr.G.Baskar, learned counsel for the assessee.

3.This Appeal has been admitted on 13.07.2009, on the following substantial question of law:-

> "Whether on the facts and circumstances of the case, the Tribunal was right in law in deleting the disallowance of commission payment to the HUF consisting of its directors as an expenditure incurred in relation to sale of the shares to be deducted to arrive at the capital gain"

4.We have perused the order of assessment as well as the order passed by the Commissioner of Income Tax and we find that the tax effect in this appeal is lesser than the threshold limit mentioned in Circular No.3 of 2018, dated 11.07.2018, issued by the Central Board of Direct Taxes, which fixes the monetary limit as Rs.50,00,000/- for the Department to pursue the matter. Furthermore, the Revenue has not been able to point out any distinguishing features, by which the Circular No.3 of 2018, dated 11.07.2018, cannot be applied.

5.Thus, for the above reasons, the Revenue cannot pursue this appeal in view of the low tax effect. Hence, this Tax Case Appeal is dismissed and the substantial question of law, framed for consideration, is left open. No costs. The Revenue is at liberty to seek for restoration of appeal, if at a later point of time, it is found that the tax effect is above the threshold limit or to fall under the exceptional clauses mentioned in the Circular.

(T.S.S., J.) (V.B.S., J.)
02.11.2018

abr

To

The Income Tax Appellate Tribunal Chennai "A" Bench.

T.S.Sivagnanam, J.
and
V.Bhavani Subbaroyan, J.

(abr)

T.C.(A).No.537 of 2009

02.11.2018